



TDS u/s 194O & 206C (1H) of the Income Tax Act, 1961 – CBDT issues Guidelines

With an intent to widen the tax base and bringing the e-commerce system into it, the Finance Act, 2020 inserted new section 194O in the Income Tax Act, 1961 which mandates an e-commerce operator to deduct income-tax at the rate of one per cent of the gross amount of sale of goods or provision of service or both, facilitated through its digital or electronic facility or platform.

Sub-section (1H) in section 206C of the Act was also inserted by the Finance Act, 2020 which mandates that a seller receiving an amount as consideration for sale of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any PY to collect tax from the buyer a sum equal to 0.1 per cent (subject to the provisions of proposed sub-section (IOA) of the section 206C of the Act) of the sale consideration exceeding fifty lakh rupees as income-tax.

The same shall come into force from October 1, 2020.

In order to remove difficulties for the deduction of TDS/TCS u/s 194O and 206C(1H) of the Income Tax Act, 1961, the Central Board of Direct Taxes with the approval of the Central Government, issues the following guidelines:

1. Applicability on transactions carried through various exchanges:

It has been clarified that the provisions of section 194O & 206C(1H) of the Act shall not be applicable to:

- I. transactions in securities and commodities which are traded through recognized stock exchanges or cleared and settled by the recognized clearing corporation, including recognized stock exchanges or recognized clearing corporation located in International Financial Service Centre;
- II. transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges registered in accordance with Regulation 21 of the CERC.

2. Applicability on payment Gateway:

It is provided that the payment gateways will not be required to deduct tax u/s 194O of the Act on a transaction, if the tax has been deducted by the ecommerce operator u/s 194O of the Act, on the same transaction.

3. Applicability on an Insurance agent or an Insurance aggregator:

It is provided that in years subsequent to the first year, if the insurance agent or insurance aggregator has no involvement in transactions between insurance company and the buyer of insurance policy, he would not be liable to deduct tax u/s 194O of the Act for those subsequent years. However, the insurance company shall be required to deduct tax on commission payment, if any, made to the insurance agent or insurance aggregator for those subsequent years under the relevant provision of the Act.

4. Calculation of threshold for the FY 2020-21:

For the purposes of section 194O & 206C(1H) of the Act coming into force from October 1, 2020, it is clarified by the Board, the thresholds and the tax required to be deducted/collected in respect of amounts received before October 1, 2020:

- I. the threshold of five lakh rupees for an individual/ HUF (being e-commerce participant who has furnished his PAN/Aadhaar) is with respect to the PY, calculation of amount of sale or services or both for triggering deduction u/s 194O of the Act shall be counted from April 1, 2020. Hence, if the gross amount of sale or services or both facilitated during the PY 2020-21 (including the period up to September 30, 2020) in relation to such an individual/HUF exceeds five lakh rupees, the provision of section 194O shall apply on any sum credited or paid on or after October 15, 2020.
- II. Section 206C(1H) of the Act applies on receipt of sale consideration, the provision of this sub-section shall not apply on any sale consideration received before October 15, 2020. Consequently it would apply on all sale consideration (including advance

received for sale) received on or after October 15, 2020 even if the sale was carried out before October 15, 2020.

- III. the threshold of fifty lakh rupees is with respect to the PY, therefore the calculation of receipt of sale consideration for triggering TCS u/s 206(1H) shall be computed from April 15, 2020. Hence, if a person being a seller has already received fifty lakh rupees or more up to September 30, 2020 from a buyer, the TCS u/s 206(1H) shall apply on all receipt of sale consideration during the PY, on or after October 15, 2020 from such buyer.

5. Applicability on Sale of Motor Vehicle:

While sub-section (1F) of section 206C is for sale to consumer only and not to dealers, sub-section (1H) is for all sale above the threshold. Hence, in order to remove difficulty it is clarified that:

- I. Receipt of sale consideration from a dealer would be subjected to TCS under sub-section (1H) of the Act, if such sales are not subjected to TCS under sub-section (1F) of section 206C of the Act.
- II. In case of sale to consumer, receipt of sale consideration for sale of motor vehicle of the value of ten lakh rupees or less to a buyer would be subjected to TCS under sub-section (1H) of section 206C of the Act, if the receipt of sale consideration for such vehicles during the PY exceeds fifty lakh rupees during the PY.
- III. In case of sale to consumer, receipt of sale consideration for sale of motor vehicle of the value exceeding ten lakh rupees would not be subjected to TCS under sub-section (1H) of section 206C of the Act if such

sales are subjected to TCS under sub-section (IF) of section 206C of the Act.

6. Adjustment of Sales Return, Discounts or Indirect Taxes:

It is clarified by the board that no adjustment on account of sales return or discount or indirect taxes including GST is required to be made for collection of tax under sub-section (IH) of section 206C of the Act since the collection is made with reference to receipt of amount of sale consideration.

7. Fuel supplied to non-resident airlines:

The provisions of sub-section (1H) of section 206C of the Act shall NOT apply on the sale consideration received for fuel supplied to non-resident airlines at airports in India.

Source:

Circular 17/2020 dated September 29, 2020

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